

### REMARKS

This amendment is responsive to the Office Action dated May 28, 2004. Applicant has amended claims 1, 11, 16, 19-21, 27, 28, 32, 38-41, 43-45, 51, 53 and 54 and added new claims 55-74. Claims 1-74 are now pending.

As a preliminary matter, Applicant would like to thank the Examiner for discussing the Office Action via telephonic interview on August 16, 2004. An Interview Summary is being submitted concurrently with this response.

In the Office Action, the Examiner rejected claims 1-4, 7-10, 19 and 20 under 35 U.S.C. §102(b) as being anticipated by McLaughlin et al. (US 5,739,809) (hereafter McLaughlin); and rejected claims 51 and 52 under 35 U.S.C. §102(b) as being anticipated by Hendry et al. (US 6,587,116) (hereafter Hendry). The Examiner also rejected claims 5, 11-15, 18, 21-39, 53 and 54 under 35 U.S.C. §103(a) as being unpatentable over McLaughlin and rejected claims 6, 16, 17, 40-50 under 35 U.S.C. §103(a) as being unpatentable over McLaughlin in view of Tamura et al. (U.S. 5,339,011) (hereafter Tamura).

Applicant respectfully traverses the rejections to the extent such rejections may be considered applicable to the amended claims. Applicant respectfully submits that all pending independent claims recite at least two features that are not disclosed or suggested in any of the applied references, either alone or in combination. In particular, none of the applied references discloses or suggests **the specification of viewing conditions for images or image folders, or the display of such images subject to the viewing conditions** as required by Applicant's claims. Applicant addresses each of these points in greater detail below.

Applicant's amended independent claim 1 recites a soft proofing system comprising a computer that specifies one or more viewing conditions for an image. Claim 1 also recites a viewing station that receives the image and the viewing conditions from the computer and displays the image subject to the viewing conditions being satisfied at the viewing station.

In rejecting claim 1, the Examiner cited McLaughlin, and specifically identified the Abstract of McLaughlin as disclosing the features of Applicant's claim 1. However, Applicant respectfully submits that the Examiner has misinterpreted claim 1, and requests reconsideration by the Examiner.

Claim 1 recites a computer that specifies viewing conditions for an image. Applicant respectfully submits that neither McLaughlin nor any of the other applied references discloses or suggests a computer that specifies viewing conditions for the image.

The Abstract of McLaughlin, cited by the Examiner, describes a method for controlling a display, and provides absolutely no suggestion of viewing conditions being specified for an image. Instead, McLaughlin describes automatic display parameter calibration that is totally unrelated to any image, but appears to apply to all display output, regardless of which images are presented by the display. Accordingly, Applicant respectfully believes that the Examiner has misinterpreted the phrase of Applicant's claims that require the computer to specify viewing conditions for the image. Nothing in McLaughlin suggests viewing conditions that are specified for an image.

Moreover, as outlined above, claim 1 also requires that the viewing station receives the image and the viewing conditions from the computer and displays the image subject to satisfaction of the viewing conditions at the viewing station. The Abstract of McLaughlin makes no mention of any conditions for display of an image, as required by claim 1.

With regard to the dependent claims of claim 1, Applicant further submits that the Examiner has misinterpreted various claim features. For example, many of the dependent claims recite specific types of viewing conditions for the image. Neither McLaughlin nor any of the other applied references discloses or suggests a computer that specifies any viewing conditions for the image, and clearly lacks any suggestion of the specific image viewing conditions required, e.g., by various dependent claims.

As one example, claim 2 recites that the viewing conditions comprise calibration information indicating a required calibration state of a display device associated with the viewing station. None of the applied references suggests a system in which calibration information is specified for an image, and the image is displayed at a viewing station subject to the display device satisfying a required calibration state indicated by the calibration information.

As another example, claim 3 recites that the viewing conditions comprise calibration information that specify a maximum amount of time since a display device at the viewing station was last calibrated. None of the applied references suggests a system in which calibration information is specified for an image, and the image is displayed at a viewing station subject to

the display device being calibrated within a maximum amount of time, as defined by the calibration information.

As another example, claim 4 requires that the viewing station automatically prompt a user to calibrate the display device when the display device has not been calibrated within the maximum amount of time. This feature is also lacking from any of the applied references.

As another example, claim 5 requires that the viewing conditions comprise calibration information that causes the viewing station to automatically prompt a user to calibrate the display device in order to view the image. None of the applied references suggests a system in which calibration information is specified for an image, and the viewing station automatically prompts a user to calibrate the display device in order to view the image.

As another example, claim 6 requires that the viewing conditions comprise warm-up information that cause the viewing station to restrict display of the image when a display device of the viewing station has not been turned on for an amount of time. This feature is also lacking from the applied references.

As another example, claim 7 requires that the viewing conditions include information specifying one or more sharpening techniques to be applied at the viewing station. This feature is also lacking from the teaching of the applied references. At this time, Applicant reserves further comment with regard to the dependent claims. Applicant does not acquiesce to any of the Examiner rejections or characterizations of the prior art relative to these claims.

Claim 11 recites a method comprising receiving image data and viewing conditions from a computer, and restricting display of an image according to the image data at a viewing station when the viewing conditions are not satisfied at the viewing station.

In rejecting claim 11, the Examiner recognized that McLaughlin lacks any suggestion of restricting display of an image according to the image data at a viewing station when viewing conditions are not satisfied at the viewing station. However, without citing any evidentiary authority or prior art, the Examiner concluded that a skilled person would have been motivated to include "this restrictive algorithm" in the McLaughlin system to safeguard against the improper display of incorrectly calibrated images.

The Examiner's conclusion of obviousness with regard to claim 11 is based on unsupported assertion without any basis in substantial evidence on the record, and should be

withdrawn. The Examiner appears to have relied on Applicant's own disclosure as motivation to modify McLaughlin, which is clearly improper. The Examiner cited no prior art teaching that would have suggested restricting display of an image, nor the desirability of such a modification in the McLaughlin system. In the absence of a pertinent teaching in the prior art, the Examiner has not satisfied the requisite burden in establishing a prima facie case of unpatentability.

Moreover, the Examiner seems to have misinterpreted the claim terminology insofar as the Examiner referred to "calibrated images." Calibration is performed on display devices, not images. McLaughlin is directed to calibration of a display to better present all display output and all images at that display, but has nothing to do with viewing conditions for a specific image nor the display of the image being subject to the viewing conditions for that image being satisfied. In accordance with Applicant's dependent claim 12, the viewing conditions comprise calibration information indicating a required calibration state of a display device associated with a viewing station. Thus, in accordance with claim 12, the display device would need to satisfy the required calibration state order for a user to view the image at that display device. Neither McLaughlin nor any of the other applied references discloses anything remotely similar to such features.

The Examiner also failed to identify any motivation in the prior art to undertake modification of the McLaughlin system, as required by the claims. The Examiner stated that the McLaughlin system could be modified to restrict the display of incorrectly calibrated images by adding an "If" branching block to the flow of the McLaughlin procedure. Yet, the Examiner cited no prior art teaching that would have suggested such a feature. Even if it were possible, why would one of ordinary skill in the art make such a modification? The question is not whether a modification is possible, but whether there is actually a motivation in the prior art to undertake the modification. Without access to Applicant's own specification, one of ordinary skill would have found no such motivation.

To compound matters, the Examiner has not only failed to identify any motivation in the prior art that would have led a skilled person to modify the McLaughlin system, but has even failed to identify a basic teaching in the prior art that suggests the "restrictive algorithm" feature, as referred to by the Examiner. This rejection is therefore clearly inappropriate and should be withdrawn.

With regard to the other dependent claims of claim 11, Applicant reserves further comment, but does not acquiesce to any of the Examiner rejections or characterizations of the prior art relative to these claims. Many of the dependent claims of claim 11 are similar to those of claim 1, and many dependent claims specifically recite various types of viewing conditions for an image, none of which are disclosed or suggested in McLaughlin or any of the other applied references, as described above.

For the record, Applicant also respectively points out that the Examiner's rejections of claims 12-15 and 18 are inconsistent with the rejections of claims 1, 3, 4, 5 and 8 respectfully. For claims 12-15 and 18, the Examiner indicated that these claims were being rejected for the same reasons as 1, 3, 4, 5 and 8 respectfully. However, these claims recite different features insofar as the features of independent claim 11 is different than the features of independent claim 1. Moreover, claims 1, 3, 4, 5 and 8 were rejected under 35 U.S.C. 102, while claims 12-15 and 18 were rejected under 35 U.S.C. 103. For each of these reasons, the Examiner's statement that claims 12-15 and 18, are rejected for the same reasons as 1, 3, 4, 5 and 8 is inconsistent and requires further clarification for Applicant to properly respond. This point should be moot however, as all of these claims should be in condition for allowance for the reasons identified herein.

Independent claim 19 recites a method comprising receiving input at a computer specifying viewing conditions for an image at a viewing station, and sending the image and the viewing conditions from the computer to the viewing station, wherein the viewing station displays the image subject to the viewing conditions being satisfied at the viewing station. This claim was also rejected as being anticipated by McLaughlin. However, claim 19, like claim 1, recites features that are not disclosed or suggested by McLaughlin. In particular, neither McLaughlin nor any of the other applied references discloses or suggests viewing conditions that are specified for an image. Moreover, none of the applied references discloses or suggests the display of images subject to anything, much less the display of an image subject to viewing conditions for that image being satisfied at the viewing station, as required by claim 19.

Independent claim 21 is directed to a computer readable medium carrying program code that when executed, performs a method similar to that of claim 11. Thus, Applicant respectfully submits that claim 21 and its dependent claims should be allowed for the same reason as claim

11. Moreover, Applicant also points out that claim 11 requires execution of the program code in the viewing station. This too distinguishes the passage of McLaughlin cited by the Examiner insofar as the Examiner is relying on the process implemented in processor 11, which is not part of display 16 (which the Examiner appears to be relying on as being a viewing station).

Independent claim 27 is directed to a computer readable medium carrying program code that when executed, performs a method similar to that of claim 19. Thus, Applicant respectfully submits that claim 27 and its dependent claims should be allowed for the same reason as claim 19.

Independent claim 32 recites a computer readable medium storing an image file that includes image data and viewing conditions for the image file, wherein access to the image data at a viewing station is restricted by the image file when the viewing conditions have not been satisfied at the viewing station. Again, McLaughlin and the other applied references lack any suggestion of viewing conditions that are specified for an image. Moreover, none of the applied references discloses or suggests the display of images subject to anything, much less the display of an image subject to viewing conditions for that image being satisfied at the viewing station.

Independent claim 38 recites a method comprising determining an amount of time that a display device at a viewing station has been turned on, and restricting viewing of an image received from a computer with one or more viewing conditions when the display device has not been turned on for an acceptable amount of time as defined by the viewing conditions. The Examiner rejected claim 38 for the same reasons as claim 25. In rejecting claim 25, the Examiner cited column 6, lines 35-39 of McLaughlin and indicated that McLaughlin's viewing conditions include an initial warm-up period for calibration on the onset of first operation of the system.

Applicant notes, however, that McLaughlin lacks any suggestion of viewing conditions as recited in Applicant's claims, contrary to the Examiner statement with respect to "McLaughlin's viewing conditions." Moreover, Applicant points out that the passage of McLaughlin cited by the Examiner in rejecting claim 38 merely indicates that each time the McLaughlin software is used for the first time with a display, the software prompts the user to perform software configuration to "specify the type of display." Thus, this passage of McLaughlin appears to have nothing in common with the features of claim 38, and clearly lacks any suggestion of the

restriction of viewing of an image received from a computer with one or more viewing conditions when the display device has not been turned on for an acceptable amount of time as defined by the viewing conditions.

Claim 41 recites a method comprising determining an amount of time that a display device has been turned on, and restricting a calibration procedure for the display device when the display device has not been turned on for an acceptable amount of time such that the calibration procedure can only be performed on the display device once the display device has been turned on for the acceptable amount of time. The Examiner rejected claim 41 "on the same grounds of rejection as claim 40." However, the Examiner rejected claim 40 "on the ground presented in the rejection of claim 6."

As a preliminary observation with regard to the rejection of claim 41, Applicant notes the important and substantial differences between claim 6 and claim 41, which were essentially bundled together by the Examiner in the Office Action rejections. Claim 6 recites warm-up information that causes the viewing station to restrict display of the image when a display device of the viewing station has not been turned on for an amount of time. In contrast, claim 41 recites the restriction of a calibration procedure such that the calibration procedure can only be performed on the display device once the display device has been turned on for the acceptable amount of time. The Examiner's bundling of claims 6, 40 and 41 is inappropriate and appears to demonstrate some confusion by the Examiner. Restricting the display of images, as recited in claim 6 is different from restricting a calibration procedure as recited in claim 41. Neither of these features, however, is disclosed or suggested in McLaughlin or any of the other applied references.

Moreover, the passage of McLaughlin cited by the Examiner in rejecting claims 6 and 41 (column 6, lines 35-39) is also the same passage used to reject claim 38, which merely indicates that each time the McLaughlin software is used for the first time with a display, the software prompts the user to perform software configuration to "specify the type of display." This passage at column 6, lines 35-39 appears to bear nothing in common with any of claims 4, 41 or 38.

Claim 43 recites a computer readable medium carrying program code that when executed performs a method similar to that recited in claim 38. Thus, Applicant respectfully submits that claim 43 should be allowed for the same reasons as claim 38.

Claim 44 recites a computer readable medium carrying program code that when executed performs a method similar to that recited in claim 41. Thus, Applicant respectfully submits that claim 44 should be allowed for the same reasons as claim 41.

Claim 45 recite a method comprising receiving an image and viewing conditions at a viewing station from a computer, and restricting an ability of a user to proof the image on a display device at the viewing station when viewing conditions have not been satisfied at the viewing station. Applicant submits that claim 45 should be allowed for the same reasons as claim 11, addressed above. Applicant notes, however, that restriction of the ability to proof an image as recited in claim 45 is broader than restriction of the display of an image. For example, restriction of the ability to proof an image could comprise restricting viewing of the image, as recited in claim 46, or restricting an ability to annotate the image as recited in claim 47. None of these features, however, is disclosed or suggested in McLaughlin or any of the other applied references.

Claim 51 recites a method comprising receiving an image and viewing conditions for the image at a viewing station from a computer, and displaying the image on a display device at the viewing station with conspicuous marking indicating that the image is not verified when the viewing conditions have not been satisfied at the viewing station. Dependent claim 52 further recites displaying the image with annotations, wherein the annotations are conspicuously marked as being added during non-verified viewing.

In rejecting claims 51 and 52, the Examiner cited Hendry as disclosing all of the features of claims 51 and 52. In particular, the cited column 5, lines 4-7 of Hendry, which states: "When invalid calibration data exists, an indication of the failure to restore the calibration is provided, such as through display of a dialog message pop-up box, which may indicate a need to recalibrate." Applicant is confused as to what portion of this passage the Examiner thinks discloses the display of an image with conspicuous marking indicating that the image is not verified. Nothing in column 5, lines 4-7 of Hendry (copied above) discloses or suggests the display of an image with conspicuous marking, much less such display to indicate that the image



is not verified. Even if a pop-up box could be reasonably construed as a conspicuous marking for the image, nothing in Hendry suggests that this popup box would identify non-verified viewing of the image.

Applicant also notes that claim 51 now specifically requires that the viewing conditions are for the image, which is addressed in detail above. With respect to claim 52, Applicant respectfully submits that nothing in column 5, lines 4-7 of Hendry is suggestive of the display of an image with annotations, much less the display of annotations that are conspicuously marked as being added during non-verified viewing. This rejection is inappropriate as Hendry does not disclose or suggest of the features of claim 52.

Claim 53 recites a computer readable medium storing a folder of images and meta data file associated with the folder, wherein the meta data file includes viewing conditions for all images in the folder, wherein an ability to display the images on a display device at a viewing station is restricted when the viewing conditions are not satisfied at the viewing station.

Claim 54 recites a soft proofing system comprising a computer that specifies one or more viewing conditions of a set of images image in a folder by setting the viewing conditions in a meta data file associated with the folder and sends the folder and the viewing conditions, and a viewing station that receives the folder and the viewing conditions and displays one or more of the images in the folder subject to the viewing conditions being satisfied at the viewing station.

In rejecting claims 53 and 54, the Examiner cited column 16 lines 37-42 of McLaughlin. The Examiner stated that “McLaughlin [teaches] the use of metadata calibration ‘base or default set of display parameters.’ This is in essence the same as saving calibration data in folders, however on a larger more versatile scale. Essentially a folder’s calibration is ‘base.’”

Applicant is also very confused as to the Examiner’s position with respect to claim 53 and 54. For example, the Examiner appears to be addressing features that are not even recited in claims 53 and 54. The storage of calibration data in a “base” appears to have nothing in common with storing a folder of images and meta data file associated with the folder, as recited in claims 53 and 54. McLaughlin simply lacks any suggestion of the storing a folder of images and meta data file associated with the folder. The calibration data of McLaughlin is clearly not a folder of images.

Moreover, McLaughlin lacks any teaching, whatsoever, of the restriction of the display of images on the display device when the viewing conditions are not satisfied as recited in claim 53. The Examiner even recognized that McLaughlin lacks any suggestion of a "restrictive algorithm" as stated by the Examiner in the rejection of claim 11.

Applicant also respectively notes that the claimed viewing conditions of claim 53 and 54 are stored in a meta data file associated with the folder of images. McLaughlin also lacks any teaching that suggests these features.

In view of the foregoing comments, Applicant respectfully submits that all pending claims are in condition for allowance. Favorable remarks to such effect are courteously solicited.

Applicant has also added new claims 55-74 to the pending application. New claim 55 finds support in Applicant's specification, e.g., at page 5, lines 11-23 and FIG. 1. Claim 55 further distinguishes the applied references by requiring a plurality of viewing stations.

Claims 56-74 find support, e.g., at page 6, line 27 to page 7, line 22. The applied references fail to disclose or suggest the additional features defined by Applicant's new dependent claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed inventions.

CONCLUSION

For at least the reasons outlined above, Applicant believes that all claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Applicant does not acquiesce with any of the Examiner's current rejections or characterizations of the prior art, and reserves the right to further address such rejections and/or characterizations. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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